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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/800,351 | 03/12/2004 | Detlef Becker | P03,0116-01 | 9892 |

7590
SCHIFF HARDIN LLP
Patent Department
6600 Sears Tower
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| EXAMINER |
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KAMAL, SHAHID

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| ART UNIT | PAPER NUMBER |
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3621

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| MAIL DATE | DELIVERY MODE |
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08/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/800,351 | Applicant(s) BECKER ET AL. | |
| | Examiner SHAHID KAMAL | Art Unit 3621 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/21/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application AFTER FINAL rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the FINALITY of the previous Office action has been WITHDRAWN pursuant to 37 CFR 1.114. Applicant's submission filed on 18 June 2009 has been entered.

Acknowledgements

2. Claim 38 is now pending in this application and has been examined.
3. The following is a NON-FINAL Office Action in response to the communication received on 18 June 2009.

Priority

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. The certify copy was filed on March 12, 2004.

Information Disclosure Statement

5. The Information Disclosure Statement filed on 21 May 2009 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 38 is rejected under 35 U.S.C. 102(e) as anticipated by Evans (US Patent No. 6,347,329 B1) (“Evans”).

8. Referring to claim 38, Evans discloses the following:

- a) providing a separate application data store containing said patient (“patient/c5,l5-33”) related electronic data objects (“record/c5,l2-33”), each electronic data object (“record/c5,l2-33”) having an associated data object identifier which is automatically generated using information stored in the data object (“record/c5,l2-33”) so that the identifier is dependent on the content of the data object (“data repository 102”) to at least one of form structural connections of the data object to groups, teams, or references to people, form contextual associations of the data object (“record/c5,l2-33”) with subject areas or studies, or form affiliation of the data object with clinical studies, diagnostic findings, or with diagnostic image types (see abstract, figure 13, column 2, lines 1-24, column 5, line 1 through column 6, line 59);
- b) providing a separate user group store for association of a plurality of unique medical field user IDs dependent on previously determined information for identification and authentication of the medical field users (see column 2, lines 1-24, column 8, lines 3-33);

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- c) providing a separate data object (“record/c5,l2-33”) category store for association of said data object (“record/c5,l2-33”) identifiers with access right categories so that access rights can thereby be determined from the data object (“record/c5,l2-33”) itself (see abstract, column 5, lines 2-67);
- d) providing a separate access right store for associating said medical field user IDs with said access right categories so that it can be determined for a particular medical field user the type of access allowed for the particular medical field user for reading, changing, or deleting information contained in the data objects (“record/c5,l2-33”) (see abstract, column 15, lines 1-39);
- e) providing an access control module connected to access said access right store, said data object (“record/c5,l2-33”) category store, and said user group store and which monitors and controls data accesses by said medical field users to said data objects (“record/c5,l2-33”) in said data application store, said access control module determining a medical field user ID from the user group store, and using said medical field user ID, determining an access right category via said access right store, and via access to said data object (“record/c5,l2-33”) category store, said access control module determining, using said data object identifiers, which access right category is associated with the data object (“record/c5,l2-33”) which the medical field user is attempting to access (see abstract, figure 13, column 2, lines 1-24, column 5, line 1 through column 6, line 59).

Response to Arguments

9. Applicant's arguments filed on June 18, 2009 have been fully considered but they are not persuasive.

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10. Applicant's arguments with respect to claim 38 has been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Ulrich et al. (U.S. Pub. No.: 2003/0191671 A1) discloses a system and method for implementing medical risk algorithms at the point of care.

12. Any inquiry concerning this communication or earlier communications from the patent examiner should be directed to Shahid Kamal whose telephone number is (571) 270-3272. The Patent examiner can normally be reached on Monday-Thursday (8:30am -7:00pm), Friday off.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for this origination where this application or proceeding is assigned is (571) 273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR.

15. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-directed.uspto.gov>.

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16. Should you have any questions on accessing to the Private PAIR system, contact the Electronic Business Center (EBC) at 1(866) 217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 1(800) 786-9199 (IN USA OR CANADA) or 1(571) 272-1000.

SK
July 29, 2009

/EVENS J. AUGUSTIN/
Primary Examiner, Art Unit 3621